

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
ASHEVILLE DIVISION  
1:09cv292**

|                                      |   |              |
|--------------------------------------|---|--------------|
| <b>RUTHERFORD COUNTY,</b>            | ) |              |
|                                      | ) |              |
| <b>Plaintiff,</b>                    | ) |              |
|                                      | ) |              |
| <b>GREYROCK COMMUNITY</b>            | ) |              |
| <b>ASSOCIATION, INC.,</b>            | ) |              |
|                                      | ) |              |
| <b>Plaintiff-Intervenor,</b>         | ) |              |
|                                      | ) |              |
| <b>Vs.</b>                           | ) | <b>ORDER</b> |
|                                      | ) |              |
| <b>BOND SAFEGUARD INSURANCE CO.,</b> | ) |              |
|                                      | ) |              |
| <b>Defendant.</b>                    | ) |              |
| _____                                | ) |              |

**THIS MATTER** is before the court on Rutherford County’s Motion for Leave to Begin Written Discovery. On August 4, 2010, plaintiff and defendant submitted via CyberClerk a “Stipulated Order Regarding Initial Written Discovery.” Review of the Local Civil Rules reveals that while there is a preference for discovery not to commence until all issues have joined, provision is made for early discovery where good cause is shown. The court believes this to be one of those cases, inasmuch as the written discovery sought by plaintiff will likely inure to the benefit of the intervenor plaintiff in the event issues join as to the intervenor. Further, conducting written discovery now will allow all parties to proceed promptly with any depositions

that are later taken. Having considered Rutherford County's motion and reviewed the pleadings, the court enters the following Order.

## **ORDER**

**IT IS, THEREFORE, ORDERED** that Rutherford County's Motion for Leave to Begin Written Discovery (#39) is **GRANTED**, and the following Order is entered providing for early written discovery between joined parties:<sup>1</sup>

### **STIPULATED ORDER REGARDING INITIAL WRITTEN DISCOVERY**

This Stipulation is entered into between Plaintiff Rutherford County ("County") and Defendant Bond Safeguard Insurance Company ("Bond Safeguard") in resolution of the issues raised in the County's Motion for Leave to Begin Written Discovery [Doc. 39] (the "Motion"). The County and Bond Safeguard, recognizing that the presence of a plaintiff (GreyRock Community Association Inc.) with which issue has not yet been joined has a bearing on the scope of the discovery which the County should undertake now so as to avoid possible duplication of discovery, have agreed to resolve the Motion on the terms set forth below:

1. Disclosures under Rule 26(a)(1) of the Federal Rules of

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<sup>1</sup> The Clerk of this court need not recite the entire stipulation in the docket entry.

Civil Procedure shall be exchanged no later than September 1, 2010.

2. Each party will be limited to 20 interrogatories and 20 requests for admissions.

3. Written discovery (which shall be deemed to constitute interrogatories, requests for admissions and requests for the production of documents, including subpoenas duces tecum to non-parties) may be commenced by the parties when this Stipulated Order is filed.

4. Other than as set forth herein, the County and Bond Safeguard reserve all rights as to other issues relating to discovery. The County and Bond Safeguard will not conduct discovery (other than written discovery) until the Court permits such further discovery through the entry of a Rule 16 scheduling order, the entry of a subsequent order under Rule 26(d), or otherwise.

5. Nothing in this Stipulated Order shall be deemed to affect the rights of the Greyrock Community Association, Inc. (the "HOA") with regard to discovery. The County and Bond Safeguard agree that with respect to the HOA the issues have not been joined because Bond Safeguard has filed a Motion to Dismiss the HOA's Third Party Complaint.

Signed: August 4, 2010

Dennis L. Howell

Dennis L. Howell  
United States Magistrate Judge

